



Costs Decision

Site visit made on 6 December 2021

by Martin Chandler BSc MA MRTPI

an Inspector appointed by the Secretary of State

Decision date: 23 December 2021

Costs application in relation to Appeal Ref: APP/C3620/W/21/3274983 Connect House and Trident House, Kingston Road, Leatherhead, Surrey KT22 7LT

- The application is made under the Town and Country Planning Act 1990, sections 78, 322 and Schedule 6, and the Local Government Act 1972, section 250(5).
 - The application is made by Halcyon Offices Ltd for a full award of costs against Mole Valley District Council.
 - The appeal was against the refusal of outline planning permission for a development originally described as: 'Outline application for the consideration of layout, appearance, access and scale in respect of the erection of one block comprising 75 No. flats with associated car parking and landscaping following demolition of the existing office buildings.'
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Decision

1. The application for an award of costs is partially allowed in the terms set out below.

Reasons

2. The Planning Practice Guidance (PPG) advises that costs may be awarded against a party who has behaved unreasonably, and that the unreasonable behaviour has directly caused another party to incur unnecessary or wasted expense in the appeal process. Awards can be based on either procedural or substantive matters.
3. It is the appellant's view that the Local Planning Authority have failed to substantiate the reasons given for refusal, and that the submitted statement fails to provide any substantive evidence to support the decision made by the Development Management Committee, which was contrary to the officer recommendation.
4. It is perfectly reasonable for a Committee to arrive at a different decision to that recommended by their officers. However, where this happens, the decision must be based on sound reasoning and substantive justification. Despite this, the statement provided by the Council fails to produce evidence in support of their decision. Concerns relating to noise and disturbance have not been articulated and accordingly, the evidence to support this decision is sparse. I find that such an approach does represent unreasonable behaviour.
5. Within their response to the costs application, the Council confirm that they are no longer pursuing the affordable housing refusal reason due to the submission of a legal agreement. I note the appellant's comments regarding this matter,

but when the original planning application was considered, based on the evidence before me, it was not supplemented with a legal agreement. Accordingly, I find this refusal reason was not unreasonable in the circumstances and that although the Council has withdrawn the reason at a relatively late stage, this is simply a consequence of timing, rather than behaving unreasonably.

6. Consequently, insofar as the claim relates to matters of noise and disturbance, I find that the Council have failed to substantiate its case. The decision is based on vague assertions and therefore, I find that unreasonable behaviour resulting in unnecessary or wasted expense, as described in the Planning Practice Guidance, has been demonstrated and that therefore, an award of costs on this point is justified. However, in relation to affordable housing considerations, I find that the Council's behaviour was not unreasonable.

Costs Order

7. In exercise of the powers under section 250(5) of the Local Government Act 1972 and Schedule 6 of the Town and Country Planning Act 1990 as amended, and all other enabling powers in that behalf, IT IS HEREBY ORDERED that Mole Valley District Council shall pay to Halcyon Offices Ltd, the costs of the appeal proceedings described in the heading of this decision, limited to those costs incurred in relation to noise and disturbance considerations; such costs to be assessed in the Senior Courts Costs Office if not agreed.
8. The applicant is now invited to submit to Mole Valley District Council, to whom a copy of this decision has been sent, details of those costs with a view to reaching agreement as to the amount.

Martin Chandler

INSPECTOR